

Appl. No. : 10/747,812
Filed : December 29, 2003

REMARKS

Claims 1-21 are pending in the present application. Reconsideration of the application in view of the following comments is respectfully requested.

Objections to the Specification

The Examiner has objected to the abstract of the disclosure. Applicants have amended the abstract and submit that the amendments are fully responsive to the Examiner's objections.

Rejection of Claims 1, 2, 4, and 7-21 under 35 U.S.C. 102(b) as being anticipated by McCullough

The Examiner has rejected Claims 1, 2, 4, and 7-21 as being anticipated by McCullough (U.S. Patent No. 5,049,349). Applicants submit that McCullough does not disclose the process of independent Claim 1 or the apparatus of independent Claim 10 wherein the neck portion of the preforms and pouches are used to convey the preforms and pouches throughout the entire process or apparatus system.

McCullough discloses a system wherein a preform is blow-molded into a box or container and then removed from the system. After removal the finished bag in a box is filled with product. See, e.g., col. 3, lines 6-10, 25-29, and 50-54. In contrast, Claims 1 and 10 recite limitations wherein the preform or pouch is handled via the neck finish throughout the entire process (wherein the preform is blow molded into a pouch and subsequently filled with product) and apparatus (wherein the handling system conveys the preforms and flexible pouches throughout the manufacturing and filling systems). McCullough does not disclose these limitations and therefore cannot anticipate these claims under 35 U.S.C. 102(b). Accordingly, Claims 1 and 10, and all claims depending therefrom, are patentable.

Rejection of Claims 3, 5, and 6 under 35 U.S.C. 103(a) over McCullough and Edwards

The Examiner has rejected dependent Claims 3, 5, and 6 as being obvious under 35 U.S.C. 103(a) over McCullough in view of Edwards (U.S. Pat. Pub. No. 2004/0148910). Responding to this rejection does not equal an admission that the Edwards reference is prior art, accordingly Applicant reserves the right to swear behind this reference at a later date if desired.

The Examiner states that McCullough does not disclose "filling the preform prior to decorating the pouch with a rigid box. Edwards teaches a method of decorating flexible pouches with a rigid box after filling the pouches with a desired product." The Examiner further states that it would have been obvious to modify McCullough to include the decorating steps of Edwards.

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As discussed above McCullough does not teach or suggest a process or apparatus wherein the preform or pouch is handled via the neck finish throughout the entire process or apparatus system. Therefore McCullough alone does not render Claims 3, 5, and 6 obvious.

Moreover, there is no teaching or suggestion to combine McCullough with Edwards. McCullough teaches that the preform is blow molded into a box or container and then filled with product. Edwards teaches that the filled flexible container is put into an outer box or container. One of skill in the art would not think to remove the bag from the box described in McCullough to then put it in the box described in Edwards.

Even if McCullough was combined with Edwards, Edwards does not teach handling the preform or pouch via a neck finish. Rather, Edwards teaches the use of conveyor belts to transfer filled pouches to a final box. This disclosure does not teach or suggest handling the pouches via the neck finish.

Accordingly, the combination of McCullough and Edwards does not render dependent Claims 3, 5, and 6 obvious. Therefore, dependent Claims 3, 5, and 6 are patentable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, Examiner is cordially invited to contact the undersigned so that any such matters may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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